A' cont'd

additional and/or modified genes are referred to herein collectively as "transgenes". Over the last fifteen to twenty years several methods for producing transgenic plants have been developed, and the present invention, in particular embodiments, also relates to transgenic versions of the claimed hybrid maize line 34B97.

In the Claims

Please amend the following claims:

A2

6. (Amended)

The tissue culture according to claim 5, the cells or protoplasts being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

A3

8. (Amended)

The maize plant of claim 2 wherein said plant has been manipulated to be male sterile.

A4

10. (Amended)

The method of claim 9 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

11. (Amended)

A maize plant or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts of claim 2, wherein said maize plant has derived at least 50% of its ancestral alleles from 34B97 and is capable of expressing a combination of at least 34B97 traits selected from the group consisting of: excellent yield potential for its maturity, above average tolerance to Fusarium Ear Rot, above average test weight, above average grain quality, above average brittle stalk resistance, above average artificial brittle stalk resistance, above average tolerance to Northern Leaf Blight, favorable to Iowa, Illinois, Indiana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Oklahoma, and

California, and a relative maturity of approximately 107 based on the Comparative Relative Maturity Rating System for harvest moisture of grain.

12. (Amended)

The hybrid maize plant according to claim 2, wherein the genetic material of said plant contains one or more transgenes.

14. (Amended)

The method of claim 13 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

15. (Amended)

A maize plant or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts of claim 12, wherein said maize plant has derived at least 50% of its ancestral alleles from 34B97 and is capable of expressing a combination of at least 34B97 traits selected from the group consisting of: excellent yield potential for its maturity, above average tolerance to Fusarium Ear Rot, above average test weight, above average grain quality, above average brittle stalk resistance, above average artificial brittle stalk resistance, above average tolerance to Northern Leaf Blight, favorable to Iowa, Illinois, Indiana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Oklahoma, and California, and a relative maturity of approximately 107 based on the Comparative Relative Maturity Rating System for harvest moisture of grain.

16. (Amended)

The hybrid maize plant according to claim 2, wherein the genetic material of said plant contains one or more genes transferred by backcrossing.

18. (Amended)

The method of claim 17 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

A6

19. (Amended)

A maize plant or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts of claim 16, wherein said maize plant has derived at least 50% of its ancestral alleles from 34B97 and is capable of expressing a combination of at least 34B97 traits selected from the group consisting of, excellent yield potential for its maturity, above average tolerance to Fusarium Ear Rot, above average test weight, above average grain quality, above average brittle stalk resistance, above average artificial brittle stalk resistance, above average tolerance to Northern Leaf Blight, favorable to Iowa, Illinois, Indiana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Oklahoma, and California, and a relative maturity of approximately 107 based on the Comparative Relative Maturity Rating System for harvest moisture of grain.

A7

21. (Amended)

The maize plant of claim 20 wherein said maize plant has been manipulated to be male sterile.

A8

23. (Amended)

The method of claim 22 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

24. (Amended)

A maize plant or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts of claim 20, wherein said maize plant has derived at least 50% of its ancestral

alleles from 34B97 and is capable of expressing a combination of at least 34B97 traits selected from the group consisting of: excellent yield potential for its maturity, above average tolerance to Fusarium Ear Rot, above average test weight, above average grain quality, above average brittle stalk resistance, above average artificial brittle stalk resistance, above average tolerance to Northern Leaf Blight, favorable to Iowa, Illinois, Indiana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Oklahoma, and California, and a relative maturity of approximately 107 based on the Comparative Relative Maturity Rating System for harvest moisture of grain.

25. (Amended)

The hybrid maize plant according to claim 20, wherein the genetic material of said plant contains one or more transgenes.

27. (Amended)

The method of claim 26 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

28. (Amended)

A maize plant or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts of claim 25, wherein said maize plant has derived at least 50% of its ancestral alleles from 34B97 and is capable of expressing a combination of at least 34B97 traits selected from the group consisting of: excellent yield potential for its maturity, above average tolerance to Fusarium Ear Rot, above average test weight, above average grain quality, above average brittle stalk resistance, above average artificial brittle stalk resistance, above average tolerance to Northern Leaf Blight, favorable to Iowa, Illinois, Indiana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Oklahoma, and California, and a relative maturity of approximately 107 based on the Comparative Relative Maturity Rating System for harvest moisture of grain.

29. (Amended)

The hybrid maize plant according to claim 20, wherein the genetic material of said plant contains one or more genes transferred by backcrossing.

31. (Amended)

The method of claim 30 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

32. (Amended)

A maize plant or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts of claim 29, wherein said maize plant has derived at least 50% of its ancestral alleles from 34B97 and is capable of expressing a combination of at least 34B97 traits selected from the group consisting of: excellent yield potential for its maturity, above average tolerance to Fusarium Ear Rot, above average test weight, above average grain quality, above average brittle stalk resistance, above average artificial brittle stalk resistance, above average tolerance to Northern Leaf Blight, favorable to Iowa, Illinois, Indiana, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Oklahoma, and California, and a relative maturity of approximately 107 based on the Comparative Relative Maturity Rating System for harvest moisture of grain.

Please add the following new claims:

33. (New)

A method of making a hybrid maize plant designated 34B97 comprising:

crossing an inbred maize plant GE533003, deposited as _____ with a second inbred maize plant GE567919, deposited as _____; and

developing from the cross a hybrid maize plant representative seed of which having been deposited under ATCC Accession Number _____.

34. (New)

A method of making an inbred plant comprising:

obtaining a hybrid maize plant 34B97 and

generating from said hybrid maize plant a parental inbred parent line, said line selected from the group consisting of GE533003 deposited as _____ and GE567919 deposited as _____.

35. (New)

The method of claim 34 wherein said generating step comprises using double haploid breeding.

36. (New)

A method of producing a 34B97 progeny maize plant in a plant breeding program comprising:

obtaining the maize plant, or its parts, produced by growing the hybrid maize seed designated 34B97,

utilizing said plant or parts thereof as a source of breeding material, and preferentially selecting for a 34B97 progeny plant with at least two desirable morphological or physiological characteristics of the plant or parts thereof produced by growing the hybrid maize seed designated 34B97,

said at least two morphological or physiological characteristics selected from the characteristics listed on the chart in Tables 1-4, thereby producing said progeny maize plant.

37. (New)

The 34B97 progeny maize plant produced by the method of claim 36, wherein the pedigree of said 34B97 progeny maize plant has two or less cross-pollinations to a maize plant other than the hybrid maize seed designated 34B97.

38. (New)

The method of claim 36 wherein the maize plant breeding program comprises one or more of the following: recurrent selection, backcrossing, pedigree breeding, restriction fragment

length polymorphism enhanced selection, genetic marker enhanced selection, making double haploids and transformation techniques.

39. (New)

A method for producing a population of 34B97 progeny hybrid maize plants comprising:

(a) obtaining a first generation progeny maize seed produced by crossing the maize plant produced by growing the hybrid maize seed designated 34B97 with a second maize plant;

(b) growing said first generation progeny maize seed to produce F_1 generation maize plants and obtaining self-pollinated seed from said F_1 generation maize plants;

(c) growing said self-pollinated seed to produce F_2 maize plants and obtaining further self-pollinated seed from said F_2 maize plants; and

(d) repeating the steps of growing and harvesting successive filial generations by selecting for morphological and physiological traits in Table(s) 1-4 to obtain a population of 34B97 progeny hybrid maize plants.

40. (New)

The population of 34B97 progeny hybrid maize plants produced by the method of claim 39, said population, on average, deriving at least 50% of its ancestral alleles from 34B97.

41. (New)

A hybrid seed selected from the population of 34B97 progeny hybrid maize plants produced by the method of claim 39, said hybrid seed deriving at least 50% of its ancestral alleles from 34B97.

42. (New)

The method of claim 39, further comprising applying double haploid methods to said F_1 generation maize plant or to a successive filial generation thereof.

43. (New)

A method of producing an hybrid maize plant derived from the maize variety 34B97, the method comprising the steps of:

(a) preparing a progeny plant derived from maize variety 34B97 by crossing a plant of the maize variety 34B97 with a second maize plant, wherein a sample of the seed of the maize variety 34B97 was deposited under ATCC Accession No. _____;

(b) crossing the progeny plant with itself or a second plant to produce a seed of a progeny plant of a subsequent generation;

(c) growing a progeny plant of a subsequent generation from said seed and crossing the progeny plant of a subsequent generation with itself or a second plant; and

(d) repeating steps (b) and (c) for an additional 3-5 generations to produce a hybrid maize plant derived from the hybrid variety 34B97.